

REMARKS

Claim 1 has also been amended to require the presence of a *Ganoderma* fungus and that this fungus is *Ganoderma lucidum*. Support for this requirement is found at page 5 line 20 of the specification. Claim 1 has also been amended to require the presence of the fungus *Coriolus versicolor* and claim 4 specifying this fungus has been canceled. Claim 1 has also been amended to require the presence of the fungus *Phellinus lineus* and as a consequence, claim 2 has been canceled. Claim 1 has further been amended to specify the plant belonging to Araliaceae as being *Panax japonicus* C. A. Mayer. Support for this definition is found at page 8 line 2 of the specification. Consequent upon the amendment of claim 1 to define Araliaceae as being *Panax japonicus* C. A. Mayer, claim 6 has been canceled. Claim 1 has been further amended to recite the oxidation-reduction potential of the composition. Consequent on this, claim 8 has become redundant and has been canceled.

The amendments made are consistent with the examiner's understandings as set out on pages 2 and 3 of the official action.

Claims 5 and 7 have also been canceled as lying outside the scope of revised claim 1. New claim 14 finds support at page 9 lines 18 - 20 of the specification.

In view of the amendments made, it is believed that the rejection under 35 USC 112 has been met.

We now turn to the rejection under 35 USC 103.

The examiner relies on Kouge US 2004/0029955 for the fungal component elements of the claims and on Son, Yuan or Goino for the plant extract elements of the claims.

However, although ginseng root has been used in Chinese traditional medicine for many years (see Yuan paragraph 18), neither Son nor Yuan teaches use of the root of *Panax japonicus* for any purpose. Yuan teaches the use of berries of *Panax ginseng* or *Panax quinquefolius*. Son

simply refers to the use of an unsaturated fatty acid extract of sesame and an alkaline extract of ginseng. Neither of these therefore gives even the slightest hint that an extract from *Panax japonicus* C. A. Mayer should be used.

The basis of the citation of Goino US 6746675 is not clear. This patent stands in the name of the present applicant and so is not citable under 35 USC 102(a) or 35 USC 102(e). It was published on June 8 2004 which is less than one year prior to the filing of International Application PCT/JP052824 on February 16 2005 and so is not a reference under 35 USC 102(b) either. Possibly, however, the Examiner intended to refer to Publication 2003/0104005 which was published more than one year prior to the International filing date of the present application. This document does describe compositions containing extracts from the fruiting bodies of *Ganoderma lucidum* and *Coriolus versicolor* and the root of *Panax japonicus* C. A. Mayer. There is, however no suggestion of the presence of extract from *Phellinus lineus* as required by the present claims. A comparison of the properties of compositions 1 and 5 set out on pages 16 -18 of the present invention shows the importance of this difference. Composition 1 falls within the present claims (as noted at page 5 line 20, *Ganoderma lucidum* is also known as Reishi fungus). Composition 5 differs only in lacking *Phellinus linteus* and so is a composition of the type described in Publication 2003/0104005. As can be seen from Table 2 the oxidation-reduction potential of the composition of the present invention is stable over 4 days. That of composition 5 is not.

This lack of a *Phellinus lineus* component is not cured by reference to Kouge. Kouge describes use of glutamic acid in a composition to treat vascular disease. The glutamic acid is used in form of fruit body of Basidiomycetes or mycelium, a dry powder thereof, or an extract or a purified material thereof. Preferably, the Basidiomycetes is one or more kinds selected from the group consisting of *Lentinus edodes*, *Flammulina velutipes*, *Lyophyllum aggregatum*, *Pleurotus ostreatus*, *Agaricus fungus*, *Phellinus linteus fungus*, *Ganoderma lucidum*, *Herichium Erinaceum fungus*, *Coriolus versicolor*, *Agaricus campestris*, *Grifola frondosa*, *Sparassis crispa*, *Schizophyllum commune*, *Tremella fuciformis* Berkeley, and *Cordyceps sinensis* (tochukaso). (see paragraph [0013]). Although this document teaches a number of different sources for glutamic acid, it is this particular compound that it teaches should be used. There is no reason to use a mixture of glutamic acid sources. Nor is there any

reason to mix the glutamic acid obtained with anything obtained from the root of *Panax japonicus* C. A. Mayer.

It is therefore submitted that the compositions of the present invention and consequently their methods of production are not obvious over the cited art.

In view of the foregoing, it is submitted that this application is in order for allowance and an early action to this end is respectfully solicited.

Respectfully submitted,



JOHN RICHARDS

C/O LADAS & PARRY LLP

26 WEST 61ST STREET

NEW YORK, NEW YORK 10023

REG. NO. 31053

TEL. NO. (212) 708-1915